CONVENTION ON THE SAFETY OF UNITED NATIONS AND ASSOCIATED PERSONNEL

On 31 January 1992, the Security Council invited the Secretary-General of the United Nations to prepare “his analysis and recommendations on ways of strengthening and making more efficient within the framework and provisions of the Charter the capacity of the United Nations for preventive diplomacy, for peacemaking and for peace-keeping” (S/23500). Pursuant to this request, the Secretary-General prepared a report entitled “An Agenda for Peace” (A/47/277-S/24111), in which he emphasized, inter alia, “the unconscionable increase in the number of fatalities” of United Nations personnel. At the forty-seventh session of the General Assembly, following the recommendation of its Fourth Committee (A/47/613), the Assembly adopted resolution 47/72 of 14 December 1992 by which, inter alia, it “request[ed] the Special Committee on Peace-keeping Operations to study other measures to ensure the safety of peacekeeping and other United Nations personnel and to report thereon to the General Assembly.”

At the 1993 session of the Special Committee on Peace-keeping Operations, the delegations of New Zealand (A/AC.121/40/Add.2) and Ukraine (A/48/173, appendix) proposed the elaboration of an international legal instrument on the safety of United Nations personnel, in the context of the Special Committee’s comprehensive review of the whole question of peacekeeping operations in all their aspects.

In 1993, pursuant to a further request by the Security Council (S/25493), the Secretary-General issued a report on the security of United Nations operations, recommending a set of long-term and short-term strategies (A/48/349–S/26358). In the long-term, the Secretary-General recommended the elaboration of a new international instrument on the safety of United Nations forces and personnel, as had been proposed in the Special Committee, which would consolidate in a single document “the set of principles and obligations contained in current multilateral and bilateral treaties, as well as provide an opportunity to codify and further develop customary international law as reflected in the recent practice of the United Nations and Member States” (A/48/349–S/26358, para. 34; see also A/AC.242/1, paras. 11-16).

Later that same year, New Zealand requested by letter to the Secretary-General (A/48/144) that the item entitled “Question of responsibility for attacks on United Nations and associated personnel and measures to ensure that those responsible for such attacks are brought to justice” be included in the provisional agenda of the forty-eighth session of the General Assembly. The agenda item was subsequently allocated to the Sixth Committee. Two proposals for texts of a draft convention were submitted to the Committee by New Zealand (A/C.6/48/L.2) and Ukraine (A/C.6/48/L.3), respectively. On 21 October 1993, the Committee established a Working Group on the Question of Responsibility for Attacks on United Nations and Associated Personnel to consider the abovementioned proposals as well as a conference room paper (A/C.6/48/RESP/CRP.1) submitted jointly by New Zealand and Ukraine on matters to be addressed in the elaboration of a convention.

On the basis of the oral report of the Chairman of the Working Group (A/C.6/48/SR.29, paras. 1-13), the Sixth Committee proposed the establishment of an Ad Hoc Committee, open to all Member States, “to elaborate an international convention dealing with the safety and security of United Nations and associated personnel, with particular reference to responsibility for attacks of such personnel”, as well as the re-establishment of the Working Group at the forty-ninth session of the General Assembly to undertake any further work on the elaboration of the convention.
The recommendation of the Committee (A/48/618) was subsequently adopted by the General Assembly in resolution 48/37 of 9 December 1993.

The Ad Hoc Committee met in two sessions in 1994, from 28 March to 8 April and from 1 to 12 August 1994. At its first session, the Ad Hoc Committee had before it a proposal submitted jointly by New Zealand and Ukraine (A/AC.242/L.2 and Corr.1), as well as a working document submitted by Denmark, Finland, Iceland, Norway, and Sweden (A/AC.242/L.3) and a note by the Secretary-General (A/AC.242/1). The Ad Hoc Committee decided to take as a basis for its work the joint proposal by New Zealand and Ukraine. The work proceeded in three stages, starting with a first reading of the various articles of the joint proposal. Thereafter, articles 1 and 2 of the joint proposal were reviewed on second reading. At the third stage, two groups of articles, articles 1-9 and 10-27, were considered in two separate consultation groups. The work of the consultation groups resulted in a “negotiating text”, which consisted of articles 3-27. Although there was a general discussion on articles 1 (definitions) and 2 (scope of the convention), no text was included for those articles in the negotiating text.

At its second session, the Ad Hoc Committee took as the basis for its work the negotiating text developed at the first session. An open-ended informal working group was entrusted with the preparation of a negotiating text for articles 1 (definitions) and 2 (scope of the convention). A proposal for a single provision covering both issues was subsequently developed and incorporated into a consolidated text containing draft articles 3 to 27 as reflected in the negotiating text. The newly consolidated text was then the subject of an article-by-article consideration, on the basis of which a revised consolidated text was developed and introduced by the Chairman of the Ad Hoc Committee. The Ad Hoc Committee submitted the revised text to the Sixth Committee with the recommendation that the Sixth Committee re-establish its Working Group in order to continue the consideration of the revised negotiating text and of proposals relating thereto (A/49/22).

At the forty-ninth session of the General Assembly, on 26 September 1994, the Sixth Committee re-established the Working Group to continue the work on the elaboration of the draft convention. The Working Group met between 3 and 14 October 1994 and concluded the elaboration of a draft convention (A/C.6/49/L.4; A/C.6/49/SR.29). Following a debate in the Sixth Committee (A/C.6/49/SR.29, 30-35) and in the General Assembly (A/49/PV.6, 7, 9, 11-13, 15-16, 19-20 and 84), the Convention on the Safety of United Nations and Associated Personnel was adopted by the Assembly in resolution 49/59 of 9 December 1994, and was open for signature at United Nations Headquarters in New York from 9 December 1994 to 31 December 1995. The convention entered into force on 9 December 1994, and remains open for ratification, approval, acceptance or accession in accordance with articles 25 and 26.


On 12 February 1999, in connection with the Security Council’s consideration of the item entitled “Protection of civilians in armed conflict”, the President of the Security Council made a statement which requested the Secretary-General to submit a report to the Council by September 1999 containing concrete recommendations on ways the Council, acting within its sphere of responsibility, could improve the physical and legal protection of civilians in situations of armed conflict (S/PRST/1999/6). In his report of 8 September 1999 (S/1999/957), the Secretary-General recommended that the Security Council invite the General Assembly to urgently pursue the development of a protocol to the 1994 Convention which would extend the scope of legal protection to all United Nations and associated personnel.
On 17 September 1999, the Security Council adopted resolution 1265 by which, having considered the report of the Secretary-General, it stressed the importance of follow-up to the report and encouraged the Secretary-General to continue consultations on the matter. At its fifty-fourth session, the General Assembly adopted resolution 54/192 of 17 December 1999 under an item of its agenda entitled “Safety and security of humanitarian personnel and protection of United Nations personnel” by which, taking note inter alia of the report of the Secretary-General and Security Council resolution 1265, it also recognized the urgency to consult further to address the recommendations contained in that report and requested the Secretary-General to submit for its consideration, by May 2000, a further report containing a detailed analysis and recommendations addressing the scope of legal protection under the 1994 Convention. At its fifty-fifth session, the General Assembly adopted resolution 55/175 of 19 December 2000 by which, taking note of the further report of the Secretary-General (A/55/637), it decided that the Sixth Committee should consider the report at the next session of the General Assembly under an item of its agenda entitled “Scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel”.

At the fifty-sixth session of the General Assembly, following the recommendation of its Sixth Committee (A/56/594 and Corr.1), the Assembly adopted resolution 56/89 of 12 December 2001 by which it decided to establish an Ad Hoc Committee on the Scope of Legal Protection under the Convention on the Safety of United Nations and Associated Personnel to consider the recommendations contained in the report of the Secretary-General and submit a report on its work for consideration by the Assembly at its next session. The Ad Hoc Committee met in four sessions from 2002 to 2005 to consider the elaboration of a protocol to the 1994 Convention (see Reports of the Ad Hoc Committee, A/57/52; A/58/52; A/59/52; A/60/52).

At the fifty-eighth session of the General Assembly, following informal consultations, the Sixth Committee established a Working Group on the Scope of Legal Protection under the Convention on the Safety of United Nations and Associated Personnel in order to supplement the work of the Ad Hoc Committee. From 2003 to 2005, the Working Group issued three reports on its work for consideration by the Sixth Committee (A/C.6/58/L.16; A/C.6/59/L.9; A/C.6/60/L.4). On 16 November 2005, the Chairman of the Ad Hoc Committee and of the Working Group, on behalf of the Bureau of the Sixth Committee, introduced a draft resolution entitled Optional Protocol to the Convention on the Safety of United Nations and Associated Personnel to which was annexed the text of the draft Optional Protocol (A/C.6/60/L.11). After a debate in the Sixth Committee (A/C.6/60/SR.8, 9 and 22), the Committee approved the draft Optional Protocol and recommended its adoption to the General Assembly (A/60/518). On 8 December 2005, following a debate in the General Assembly (A/60/PV.61), the Assembly adopted resolution 60/42 to this effect by which it accordingly adopted the Optional Protocol and requested the Secretary-General as depositary to open it for signature. The Optional Protocol was open for signature at United Nations Headquarters in New York from 16 January 2006 to 16 January 2007. The Protocol shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification, acceptance, approval or accession.